



G. A. 489/96

②

Division Bench (Criminal)

/- APPEAL OF PRISONER -/

No. 292

Name

माइवी रोड्डा

Father's Name

कोवा

Residence

ग्राम -
कोवा -

Age 28

Sentenced to

आजीवन कारावास

on

4.11.95

under Section

302 भा. दं. वि. 1 अति. सत्र न्यायाल

जगदलपुर

S.T.No. 364/91

It is explained to the prisoner that if he states or wishes to be represented by a legal practitioner the Appellate Court will not proceed with the case for seven days unless the legal practitioner appears. If the legal practitioner does not appear with the seven days he may be heard at all if the prisoner states that he does not wish to be represented by legal practitioner the Court may proceed at once with the case and will not be obliged to give a hearing to any legal practitioner who should appear.

1. Date of application for copy of Judgement : No.
2. Date of which copy received :- 4.11.95
3. Date on which Appellant :- 14.11.95
4. Whether the prisoner wished to be represented or not Yes/No.

No. 292

Name

माइवी रोड्डा पिता कोवा

Continued in

Distt.

Jail

I class Jagdalpur.

No. 186

/ October/95

Dated

14/11/95

Forwarded to the CHIEF JUDICIAL MAGISTRATE Jagdalpur. together with a copy of judgement or order passed in the case for favour of transmission to the proper Appellate Court.

Superintendent - Central/Distt./

Jail.

Date of receipt in C.J.M's Office.

Date of receipt of record of accompany.

Memo of Appeal of the Appellate Court.

No.

69

Dated

15.11.95

Forwarded to the

Hble Sessions Judge Jagdalpur

C.J. Magistrate

Date of receipt of Appellate Court.

आदेश पत्रक
 Cr. A. No. 489/96
 मामला क्रमांक सं. 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<u>D.B. : HON'BLE SHRI LAL CHAND BHADOO, J. AND HON'BLE SHRI VIJAY KUMAR SHRIVASTAVA, J.</u> <u>19-12-2005</u> Mrs. Kiran Jain, counsel for the accused/appellant. Mr. Ashish Shukla, Additional Public Prosecutor and Mr. Sachin Singh Rajput, Panel Lawyer for the respondent/State. Heard. <u>ORAL JUDGMENT</u> 1. By this appeal, through Superintendent, District Jail, First Class, Jagdalpur, the accused/appellant Madvi Rodda has questioned the legality of judgment of conviction and order of sentence dated 4-11-1995 passed by 1st Additional Sessions Judge, Jagdalpur in Sessions Trial No.364/91, whereby the learned Additional Sessions Judge, after holding the accused/appellant guilty for commission of the offence under Section 302 of the Indian Penal Code, sentenced him to undergo imprisonment for life.	

[पीछे देखिये]

आदेश पत्रक

मामला क्रमांक — 2 — सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	2. The case of the prosecution, in brief, is that, on Friday, the 4th October, 1991, the accused Madvi Rodda came and called Kunjami Hidma out of his house saying that he has some work with him, and when Kunjami Hidma came out, the accused Madvi Rodda attacked him with an Axe on the back of his body, as a result of which, the Axe penetrated in the back of Kunjami Hidma and he fell down. The matter was reported by Kunjami Hungaram in Police Station Kuvakonda. The Police registered F.I.R., Ex.P-1 at Crime Sl.No.75 of 91. The Investigating Officer left for the scene of occurrence and sent the body for post mortem examination to Primary Health Centre, Kuvakonda, where Dr.Hansraj Verma conducted post mortem on the dead body of Kunjami Hidma, prepared a post mortem report, Ex.P-3, in which it is mentioned that, the cause of death is hypovolemic haemorrhagic shock because of sharp weapon injury homicidal in nature, and that the injury was caused by hard and sharp object. After completion of the investigation, a charge-sheet was filed in the Court of Judicial Magistrate First Class, Dantewada, who, in	

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आदेश पत्रक

मामला क्रमांक सन् 200

- 3 -
विरुद्ध

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	turn, committed the case to the Sessions Judge, Jagdalpur, wherefrom, Ist Additional Sessions Judge received the case on transfer for trial. 3. The prosecution, in order to prove the charge against the accused, examined 6 witnesses. On the other hand, statement of the accused was recorded under Section 313 of the Code of Criminal Procedure, in which, he denied the prosecution evidence and stated that he is innocent. 4. Learned Ist Additional Sessions Judge, after hearing the arguments of learned counsel for both the parties, convicted and sentenced the accused as mentioned in para 1 of this judgment. 5. The fact of homicidal nature of death of Kunjami Hidma has not been disputed by learned counsel for the accused/appellant. The eye-witness P.W.-4, Kunjami Nande, the	

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आदेश पत्रक

मामला क्रमांक

सन् 200

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	wife of the deceased, in her evidence, has stated that, the accused assaulted her husband with an Axe, and P.W.-6, Dr.Hansraj Verma, in his evidence, has stated that, he conducted the post mortem on the dead body of Kunjami Hidma and found that there was a cut wound on the left side of the back of deceased Kunjami Hidma in the size of 3 cms. x ¼ cm. x 5½ cms., and on account of the injury, the lung and spleen were found cut, and he died because of the said injury and haemorrhage. Therefore, in view of the above evidence of the eye-witness P.W.-4, Kunjami Nande and the medical evidence of P.W.-6, Dr.Hansraj Verma, it is established that, the death of Kunjami Hidma was homicidal in nature. 6. So far as the question of involvement of the accused/appellant in committing the murder of Kunjami Hidma is concerned, P.W.-3, Kunjami Hungaram, the brother of the deceased, has stated that, Jaggu, the son of the deceased, came and informed him that Rodda has assaulted Kunjami Hidma with an Axe and this witness went to the scene of occurrence and saw	

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आदेश पत्रक

मामला क्रमांक -5- सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	that his brother was lying dead. There was injury on his body in the back side. The Axe was stuck in the body. Thereafter, his grand mother came and pulled out the Axe from the body of Kunjami Hidma, and this witness gave the report, Ex.P-1. The accused Madvi Rodda is brother-in-law of this witness. P.W.-4, Kunjami Nande, the wife of the deceased, witnessed the crime and has stated that the accused assaulted her husband with an Axe. Nothing has been elicited in the cross-examination of these witnesses to demolish the evidence. The evidence of P.W.-3, Kunjami Hungaram and P.W.-4, Kunjami Nande stand corroborated by the medical evidence in which Dr.Hansraj Verma has stated that there was a cut injury on the back side of Kunjami Hidma and on account of which the spleen and lung were cut. Therefore, the involvement of the accused in the crime in question is established and the finding of the trial Court is based on legal evidence which does not require any interference by this Court. 7. Learned counsel for the accused/appellant argued that, looking to the nature of evidence, the offence under Section	

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आदेश पत्रक

मामला क्रमांक

-6-

सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	304 Part I of the Indian Penal Code is made out against the accused/appellant. 8. On the other hand, learned Panel Lawyer Mr. Rajput, appearing for the State, supported the judgment of the trial Court. 9. Having heard learned counsel for both the parties and perused the evidence of eye-witness P.W.-4, Kunjami Nande and the medical evidence of P.W.-6, Dr. Hansraj Verma, we are of the opinion that, there is no merit in the argument advanced by learned counsel for the accused/appellant, for the reason that, the manner, in which the accused attacked the deceased on the vital part of the body that too with a dangerous weapon like Axe, makes the intention of the accused clear that he attacked the deceased with an intention to commit murder and attacked with such a force that even Axe was stuck in the body of the deceased, as a result of which, the lung and spleen of the deceased were cut. Therefore, the trial Court has rightly convicted the	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक 7- सन् 200

विरुद्ध

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	accused/appellant for commission of the offence under Section 302 of the Indian Penal Code and we do not find any substance in this appeal. 10. In the result, the appeal is liable to be dismissed and is accordingly dismissed. Sd/- L.C. BHADOO Judge	Sd/- Vijay Kumar Shrivastava Judge

G.Singh

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28/1/08